

# United States Senate

WASHINGTON, DC 20510-3704

March 6, 2001

The Honorable Christie Whitman  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

Dear Administrator Whitman:

I am writing to request your immediate review of the Environmental Protection Agency's (EPA) recent enforcement policies regarding animal feeding operations in Region X. Under your stewardship, I hope the EPA will choose to work constructively with the legislative and executive leadership of Oregon state government as well as Oregon's ranching industry to ensure cattle operations in the state are in compliance with the mandates of the Clean Water Act.

It is my understanding that the EPA's enforcement of the Clean Water Act in Oregon has been complicated by Oregon state laws making the Oregon Department of Agriculture -- rather than the Oregon Department of Environmental Quality -- the lead state agency implementing aspects of this law affecting agriculture. The differing definitions and standards for Confined Animal Feeding Operations (CAFOs) used by the Oregon Department of Agriculture and the EPA, generated concerns at EPA that enforcement of feeding operations in Oregon could be inadequate. Rather than attempt to resolve these issues with the state government, however, the EPA chose to bring greater scrutiny to bear upon Oregon ranches -- many of which are small, family-owned operations. This heightened enforcement policy culminated in substantial fines levied late last year by the EPA against feedlot operators in Wallowa County in Northeast Oregon. In at least one case, the affected landowner had already been working diligently to bring the feedlot into full compliance, following an informational session hosted by Oregon State University's extension service with the Oregon Department of Agriculture and the EPA. These spot inspections and subsequent fines came as a complete surprise, astonishing not only the affected landowners but the state's ranching community as a whole.

I hope you will agree with me that surprise inspections followed by heavy fines should not be the actions of *first* resort for any federal agency interested in cooperative solutions to environmental problems. Let me be clear, I am a strong supporter of the Clean Water Act and believe all Oregonians have an important responsibility to ensure our waters are made cleaner for future generations. However, to meet this challenge I believe it is essential that the EPA cooperatively engage landowners and other directly affected constituencies as it determines compliance under the law. In this case, the EPA's attempts to resolve these compliance issues with Oregon's ranching community in a heavy-handed manner have seriously eroded the reputation of the agency within the rural communities of my state. Unfortunately, this will only make it that much more difficult in the future to convince landowners that they should work with the federal government to do more than the bare minimum required by environmental laws.

[www.gsmith.senate.gov](http://www.gsmith.senate.gov)  
[oregon@gsmith.senate.gov](mailto:oregon@gsmith.senate.gov)

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I am therefore requesting your immediate review of enforcement policies used in Region X related to the enforcement of Clean Water Act regulations for animal feeding operations. In particular, I would like to know: 1) Would the EPA commit to providing landowners fair warning and an opportunity to correct identified problems prior to taking punitive measures in the future? 2) Would the EPA withdraw or at least put a hold on attempts to collect on fines levied against animal feeding operations in Oregon without the benefit of prior warning until such time that these regulatory policies have been thoroughly reviewed? 3) Would the EPA commit to working with the leadership of Oregon state government as well as the ranching community to find a constructive resolution to these enforcement issues as requested by the letter of October 4, 2000 from the State of Oregon to the Acting Director of Region X?

Thank you for your expeditious review of this matter. Your leadership and fresh perspective at the EPA is greatly appreciated. I look forward to the opportunity to discuss this important issue with you in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon H. Smith", with a long horizontal flourish extending to the right.

GORDON H. SMITH  
United States Senator